

REMARKS

Claims 1-29 are pending in the present application. Claims 1, 15, 17-20, 23, 25, 28, and 29 were canceled and claims 2-5, 11-13, 21, and 26 were amended.

Reconsideration of the claims is respectfully requested.

The abstract has been amended as directed by the examiner.

I. 35 U.S.C. § 103, Obviousness

The examiner has rejected claims 1-12, 17-20 and 25 under 35 U.S.C. § 103 as being unpatentable over Barrick, Jr. et al. (US006006260A) and in view of Lai et al. (US006600737B1). This rejection is respectfully traversed.

These claims have been cancelled, with the exception of the claims dependent on claim 1, which have been amended to change their dependencies to Claim 13. Thus, this rejection appears to be moot.

The examiner has rejected claims 13-16, 21-24 and 26-29 under 35 U.S.C. § 103 as being unpatentable over Barrick, Jr. et al. in view of Lai et al. and Chaddha (US006345293B1). This rejection is respectfully traversed.

Representative Claim 13 reads,

13. A method of serving a page from a server, comprising:
 - upon a browser event, issuing a request to a benchmarking server;
 - in response to said request, returning given data from the benchmarking server to the browser;
 - using said given data to calculate connection speed data;
 - passing said connection speed data in a client request to a server; and
 - in response to receiving said connection speed data in said client request, returning a given page conforming to the connection speed data by the server.

There are several problems with this rejection, as the references relied on do not appear to either meet the limitations of the claims, nor to provide a motivation to modify their disclosed systems to reach the claim limitations. Each of these issues will be discussed.

With regard to Claims 13, 21-24 and 26-29, the Office Action reads the limitation of "returning a given page conforming to the connection speed data by the server" on

"Chaddha, col.7, lines 10-28; fig.5"¹. It is respectfully asserted that Chaddha does not perform the action that is attributed to it. In the cited selection, Chaddha does state,

FIG. 5 illustrates yet another aspect of the invention in which a cost effective bandwidth is selected for transmitting scalable multimedia content to the end user which corresponds to the likelihood of patronage. In this example, as in most wide area networks such as the Internet, the content provider, e.g., advertiser, is billed for bandwidth used to disseminate the multimedia content. As such, in order to spend the marketing budget wisely, a cost effective scheme for selecting an appropriate bandwidth to deliver content is needed.

Upon receiving an optional end user request for the scalable multimedia content (step 510), a cost effective bandwidth is selected for transmitting the scalable content to the end user which corresponds to the likelihood of patronage (step 530). In this example, the scalable content is stored in a server, e.g., local server 221. Examples of scalable content include a scalable video stream or as a plurality of video streams corresponding different data transmission rates.

While it appears true that Chaddha does send different pages from the website to different users, Chaddha does not appear to send a page that corresponds to the effective bandwidth of the user. Rather, Chaddha is looking to personal profiles, which include "indicators, such as family income, hobbies, and ages which provide useful indicators of the consumption habits of the end users"². Chaddha is directed to making advertising more cost-effective by targeting ads to their users. This is not the same as basing the transmission on the connection speed of the user. Clearly, Chaddha does not meet the limitation of returning a given page conforming to the connection speed data, since Chaddha does not discuss the connection speed. Neither, it is asserted, do Barrick or Lai supply what Chaddha has not provided. Barrick is directed to gathering information for the server; but does not disclose that this information is used to modify the pages sent. Lai is directed to ensuring that enough bandwidth is given to voice communications when both voice and data are sharing a connection. Neither of these patents discusses changing a page sent to a client, based on the connection speed.

The rejection asserts that the above combination would be obvious in order to "efficiently utilizing the network resources while distribute personalized information or data over a computer network". However, it is asserted that these references do not provide the given motivation. Chaddha is the reference relied on to send different page to different users. Chaddha is concerned about an advertising budget, as evidenced in the following,

¹ Office action of 4/8/04, page 4, item 8

² Chaddha, abstract

Indicators useful for estimating the likelihood of patronage, which indicates a likely return on the marketing investment, include regularity of patronage at the business, customers' income history, credit worthiness, age, hobbies, occupation and marital status (step 520). For example, if a request for a Rolls Royce came from an end user with an annual income of over a million dollars, the Rolls Royce dealer will likely transmit the sales information in the best resolution possible for the highest available bandwidth. Conversely, if the same request came from a twelve year old automobile buff with a very small expendable allowance, selecting the lowest bandwidth would be appropriate.³

Thus, this patent is not looking at available connection speed as the deciding factor, but is interested in personal factors that will affect the probability of sales. Neither, it is submitted, does Barrick supply a motivation to combine these patents. Rather, Barrick identifies its objective as "evaluating service to a user over the Internet". The undersigned agent could find no reference in Barrick to modifying the service to the user, only to evaluating service. It is submitted that the motivation set forth in the rejection has been drawn from a hindsight perspective from the invention. It is asserted that this rejection is overcome.

Further, with regard to Claim 21, this claim recites,

21. (Original) A web server computer program product in a computer readable medium comprising:
code for parsing a client request from a browser for connection speed data;
code responsive to finding connection speed data for selecting an appropriate web page to the browser; and
code responsive to an absence of connection speed data for redirecting the browser to a benchmarking server.

It is submitted that Barrick's server is initiating the process of determining a connection speed; therefore, the server does not expect the client to already have connection speed data. Therefore, Barrick's server does not (and has no reason to) parse a client request for data about the connection speed. It is submitted that neither Barrick nor the other references relied on meet this limitation.

This rejection is overcome.

³ Chaddha, column 7, lines 29-41

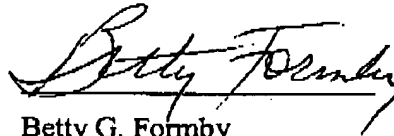
II. Conclusion

It is respectfully urged that the subject application is patentable over any combination of Barrick, Lai, and Chaddha and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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